

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

FRANKLIN PENA,

X

Plaintiff,

-against-

THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK,
CARDINAL HAYES HIGH SCHOOL, JOHN GRAHAM,
and JOHN PADACK,Index No.: _____/19
Date Filed: _____/19SUMMONSPlaintiff designates Bronx
County as the place of trial.

Defendants.

X

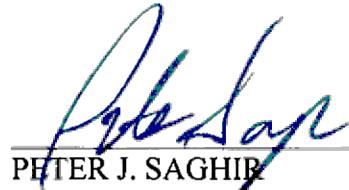
TO THE ABOVE NAMED DEFENDANTS:

Basis of venue: CPLR 503(a)
County in which substantial
part of the events or omissions
giving rise to claim occurred.

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiff's attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
October 11, 2019

Yours etc.,
GAIR, GAIR, CONASON, RUBINOWITZ, BLOOM,
HERSHENHORN, STEIGMAN & MACKAUF
Attorneys for Plaintiff



PETER J. SAGHIR
80 Pine Street, 34th Floor
New York, New York 10005
(212) 943-1090

TO: See Attached Service Rider

SERVICE RIDER

THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK
1011 1st Avenue
New York, NY 10022

CARDINAL HAYES HIGH SCHOOL
650 Grand Concourse
Bronx, NY 10451

JOHN GRAHAM
St. Frances de Chantal Church
190 Hollywood Ave
Bronx, NY 10465

JOHN PADDACK
Church of Notre Dame
405 West 114th Street
New York, NY 10025

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

FRANKLIN PENA,

X
Index No.: _____ /19

Plaintiff,

VERIFIED COMPLAINT

-against-

THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK,
CARDINAL HAYES HIGH SCHOOL, JOHN GRAHAM,
and JOHN PADACK,

Defendants.

X

Plaintiff, complaining of the defendants, by and through his attorneys, GAIR, CONASON, RUBINOWITZ, BLOOM, HERSHENHORN, STEIGMAN & MACKAUF, respectfully shows to this Court and alleges as follows:

AS AND FOR A FIRST CAUSE OF ACTION

1. Upon information and belief, that at all times herein mentioned, defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK, was and still is a not for profit religious corporation duly organized and existing under and by virtue of the laws of the State of New York.
2. Upon information and belief, that at all times herein mentioned, defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK, owned a school known as Cardinal Hayes High School located at 650 Grand Concourse, Bronx, New York 10451.
3. Upon information and belief, that at all times herein mentioned, defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK, its agents, servants and employees managed, maintained, operated and controlled the aforesaid school known as Cardinal Hayes High School located at 650 Grand Concourse, Bronx, New York 10451.
4. Upon information and belief, that at all times herein mentioned, defendant, THE

ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK, held itself out to the public as the owner of Cardinal Hayes High School located at 650 Grand Concourse, Bronx, New York 10451.

5. Upon information and belief, that at all times herein mentioned, defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK, held itself and its agents, servants and employees out to the public as those who managed, maintained, operated and controlled Cardinal Hayes High School located at 650 Grand Concourse, Bronx, New York 10451.

6. Upon information and belief, that at all times herein mentioned, defendant, CARDINAL HAYES HIGH SCHOOL, was and still is a not for profit religious corporation duly organized and existing under and by virtue of the laws of the State of New York.

7. Upon information and belief, that at all times herein mentioned, defendant, CARDINAL HAYES HIGH SCHOOL, owned a school located at 650 Grand Concourse, Bronx, New York 10451.

8. Upon information and belief, that at all times herein mentioned, defendant, CARDINAL HAYES HIGH SCHOOL, its agents, servants and employees managed, maintained, operated and controlled the aforesaid school located at 650 Grand Concourse, Bronx, New York 10451.

9. Upon information and belief, that at all times herein mentioned, defendant, CARDINAL HAYES HIGH SCHOOL, held itself out to the public as the owner of Cardinal Hayes High School located at 650 Grand Concourse, Bronx, New York 10451.

10. Upon information and belief, that at all times herein mentioned, defendant, CARDINAL HAYES HIGH SCHOOL, held itself and its agents, servants and employees out to the public as those who managed, maintained, operated and controlled Cardinal Hayes High

School located at 650 Grand Concourse, Bronx, New York 10451.

11. Upon information and belief, that at all times herein mentioned, defendant, JOHN GRAHAM, was a priest.

12. Upon information and belief, that all times herein mentioned, defendant, JOHN GRAHAM, was ordained by defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK.

13. Upon information and belief, that at all times herein mentioned, defendant, JOHN GRAHAM, was a priest in, defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK.

14. Upon information and belief, that at all times herein mentioned, defendant, JOHN GRAHAM, was a principal at Cardinal Hayes High School located at 650 Grand Concourse, Bronx, New York 10451.

15. Upon information and belief, that at all times herein mentioned, defendant, JOHN GRAHAM, supervised employees while he was a principal at Cardinal Hayes High School.

16. Upon information and belief, that at all times herein mentioned, defendant, JOHN GRAHAM, was on the staff of defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK.

17. Upon information and belief, that at all times herein mentioned, defendant, JOHN GRAHAM, was acting as an agent of defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK.

18. Upon information and belief, that at all times herein mentioned, defendant, JOHN GRAHAM, was an employee of defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK.

19. Upon information and belief, that at all times herein mentioned, defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK, installed defendant, JOHN GRAHAM, as principal at Cardinal Hayes High School.

20. Upon information and belief, that at all times herein mentioned, defendant, JOHN GRAHAM, served as principal at Cardinal Hayes High School at the pleasure of defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK.

21. Upon information and belief, that at all times herein mentioned, defendant, JOHN GRAHAM, was acting in the course and scope of his employment with defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK.

22. Upon information and belief, some time prior to and at all times herein mentioned, defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK, hired defendant, JOHN GRAHAM.

23. Upon information and belief, that at all times herein mentioned, defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK, retained defendant, JOHN GRAHAM.

24. Upon information and belief, that at all times herein mentioned, defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK, supervised defendant, JOHN GRAHAM.

25. Upon information and belief, some time prior to and at all times herein mentioned, defendant, CARDINAL HAYES HIGH SCHOOL, hired defendant, JOHN GRAHAM.

26. Upon information and belief, that at all times herein mentioned, defendant, CARDINAL HAYES HIGH SCHOOL, retained defendant, JOHN GRAHAM.

27. Upon information and belief, that at all times herein mentioned, defendant, CARDINAL HAYES HIGH SCHOOL, supervised defendant, JOHN GRAHAM.
28. Upon information and belief, that at all times herein mentioned, defendant, JOHN GRAHAM, was on the staff of defendant, CARDINAL HAYES HIGH SCHOOL.
29. Upon information and belief, that at all times herein mentioned, defendant, JOHN GRAHAM, was acting as an agent of defendant, CARDINAL HAYES HIGH SCHOOL.
30. Upon information and belief, that at all times herein mentioned, defendant, JOHN GRAHAM, was an employee of defendant, CARDINAL HAYES HIGH SCHOOL.
31. Upon information and belief, that at all times herein mentioned, defendant, JOHN GRAHAM, was acting in the course and scope of his employment with defendant, CARDINAL HAYES HIGH SCHOOL.
32. Upon information and belief, that at all times herein mentioned, defendant, JOHN PADDACK, was a priest.
33. Upon information and belief, that at all times herein mentioned, defendant, JOHN PADDACK, was ordained by defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK.
34. Upon information and belief, that all times herein mentioned, defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK, appointed defendant, JOHN PADDACK, as a teacher at Cardinal Hayes High School.
35. Upon information and belief, that all times herein mentioned, defendant, JOHN PADDACK, served as a teacher at Cardinal Hayes High School at the pleasure of defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK.
36. Upon information and belief, that at all times herein mentioned, defendant, JOHN

PADDACK, was on the staff of defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK.

37. Upon information and belief, that at all times herein mentioned, defendant, JOHN PADDACK, was acting as an agent of defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK.

38. Upon information and belief, that at all times herein mentioned, defendant, JOHN PADDACK, was an employee of defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK.

39. Upon information and belief, that at all times herein mentioned, defendant, JOHN PADDACK, was acting in the course and scope of his employment with defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK.

40. Upon information and belief, some time prior to and at all times herein mentioned, defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK, hired defendant, JOHN PADDACK.

41. Upon information and belief, that at all times herein mentioned, defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK, retained defendant, JOHN PADDACK.

42. Upon information and belief, that at all times herein mentioned, defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK, supervised defendant, JOHN PADDACK.

43. Upon information and belief, that at all times herein mentioned, defendant, JOHN PADDACK, was the Freshman Guidance Counselor at Cardinal Hayes High School located at 650 Grand Concourse, Bronx, New York 10451.

44. Upon information and belief, that at all times herein mentioned, defendant, JOHN PADDACK, had an office on the premises of Cardinal Hayes High School located at 650 Grand Concourse, Bronx, New York 10451.

45. Upon information and belief, that at all times herein mentioned, defendant, JOHN PADDACK, was on the staff of defendant, CARDINAL HAYES HIGH SCHOOL.

46. Upon information and belief, that at all times herein mentioned, defendant, JOHN PADDACK, was acting as an agent of defendant, CARDINAL HAYES HIGH SCHOOL.

47. Upon information and belief, that at all times herein mentioned, defendant, JOHN PADDACK, was an employee of defendant, CARDINAL HAYES HIGH SCHOOL.

48. Upon information and belief, that at all times herein mentioned, defendant, JOHN PADDACK, was acting in the course and scope of his employment with defendant, CARDINAL HAYES HIGH SCHOOL.

49. Upon information and belief, some time prior to and at all times herein mentioned, defendant, CARDINAL HAYES HIGH SCHOOL, hired defendant, JOHN PADDACK.

50. Upon information and belief, that at all times herein mentioned, defendant, CARDINAL HAYES HIGH SCHOOL, retained defendant, JOHN PADDACK.

51. Upon information and belief, that at all times herein mentioned, defendant, CARDINAL HAYES HIGH SCHOOL, supervised defendant, JOHN PADDACK.

52. Upon information and belief, that at all times herein mentioned, defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK, was responsible for the staffing and hiring at Cardinal Hayes High School located at 650 Grand Concourse, Bronx, New York 10451.

53. Upon information and belief, that at all times herein mentioned, defendant, THE

ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK, did the hiring and staffing at Cardinal Hayes High School located at 650 Grand Concourse, Bronx, New York 10451.

54. Upon information and belief, that at all times herein mentioned, defendant, CARDINAL HAYES HIGH SCHOOL, was responsible for the staffing and hiring at Cardinal Hayes High School located at 650 Grand Concourse, Bronx, New York 10451.

55. Upon information and belief, that at all times herein mentioned, defendant, CARDINAL HAYES HIGH SCHOOL, did the hiring and staffing at Cardinal Hayes High School located at 650 Grand Concourse, Bronx, New York 10451.

56. Upon information and belief, that at all times herein mentioned, defendant, JOHN GRAHAM, was responsible for the staffing and hiring at Cardinal Hayes High School located at 650 Grand Concourse, Bronx, New York 10451.

57. Upon information and belief, that at all times herein mentioned, defendant, JOHN GRAHAM, did the hiring and staffing at Cardinal Hayes High School located at 650 Grand Concourse, Bronx, New York 10451.

58. Upon information and belief, that prior to and at all times herein mentioned, defendant, JOHN PADDACK, had complaints of sexual abuse made against him.

59. Upon information and belief, defendants, their agents, servants and employees knew or should have known of the aforesaid complaints of sexual abuse against defendant, JOHN PADDACK.

60. Upon information and belief, that prior to the times mentioned herein, defendant, JOHN PADDACK, was a known sexual abuser of children.

61. Upon information and belief, that prior to the times mentioned herein, defendant, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK, received complaints that

defendant, JOHN PADDACK, had been a sexual abuser of children.

62. Upon information and belief, that prior to the times mentioned herein, defendant, CARDINAL HAYES HIGH SCHOOL, received complaints that defendant, JOHN PADDACK, had been a sexual abuser of children.

63. Upon information and belief, that prior to the times mentioned herein, defendant, JOHN GRAHAM, received complaints that defendant, JOHN PADDACK, had been a sexual abuser of children.

64. That at all times herein mentioned, defendants, their agents, servants and employees, knew or should have known that defendant, JOHN PADDACK, had been the subject of complaints of sexual abuse.

65. That at all times herein mentioned, defendants, their agents, servants and employees, knew or should have known that defendant, JOHN PADDACK, was a known sexual abuser of children.

66. That at all times herein mentioned, defendants, their agents, servants and employees, could reasonably have anticipated that defendant, JOHN PADDACK's, sexual abuse complaints and sexual abuse of children would be likely to result in injury to others.

67. Upon information and belief, that at all times herein mentioned, defendants, their agents, servants and employees failed to investigate the aforesaid complaints against defendant, JOHN PADDACK.

68. Upon information and belief, that at all times herein mentioned, defendants, their agents, servants and employees failed to properly, adequately and thoroughly investigate the aforesaid complaints against defendant, JOHN PADDACK.

69. Upon information and belief, that at all times herein mentioned, defendants, their

agents, servants and employees failed to report or refer the aforesaid complaints made against defendant, JOHN PADDACK to the police or any other agency to be investigated.

70. Upon information and belief, that at all times herein mentioned, defendants, their agents, servants and employees carelessly, negligently and recklessly ignored and dismissed the aforesaid complaints against defendant, JOHN PADDACK.

71. Upon information and belief, that at all times herein mentioned, the aforesaid complaints against defendant, JOHN PADDACK, had merit.

72. That at all times herein mentioned, defendants, their agents, servants and employees, knew or should have known that the aforesaid complaints against defendant, JOHN PADDACK, had merit.

73. That at all times herein mentioned, defendants, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK, CARDINAL HAYES HIGH SCHOOL, and JOHN GRAHAM, failed to establish policies and procedures directed towards protecting minors from sexual abuse.

74. That at all times herein mentioned, defendant, JOHN GRAHAM, was unqualified and unfit to serve as a principal and supervise employees and students at Cardinal Hayes High School.

75. That at all times herein mentioned, defendants, their agents, servants and employees, could reasonably have anticipated that defendant, JOHN GRAHAM, was unqualified and unfit to perform his job and supervise employees and volunteers and that this would be likely to result in injury to others.

76. That at all times herein mentioned, plaintiff, FRANKLIN PENA, was enrolled as a student at Cardinal Hayes High School located at 650 Grand Concourse, Bronx, New York

10451.

77. From approximately 1992 through 1996, defendant, JOHN PADDACK, sexually abused and molested plaintiff, FRANKLIN PENA, while plaintiff was still an infant.

78. The aforesaid abuse constituted a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age, or the use of a child in a sexual performance as defined in section 263.05 of the penal law, or a predecessor statute that prohibited such conduct at the time of the act, which conduct was committed against a child less than eighteen years of age.

79. From approximately 1992 through approximately 1996, defendant, JOHN PADDACK, using the trust and authority vested in him by defendants, began grooming plaintiff, FRANKLIN PENA, while plaintiff was still an infant, to gain the trust of and control over the infant as part of his plan to sexually molest and abuse him.

80. From approximately 1992 through 1996, defendant, JOHN PADDACK, sexually abused plaintiff, FRANKLIN PENA, while plaintiff was still an infant, on school property at Cardinal Hayes High School located at 650 Grand Concourse, Bronx, New York 10451, and other locations.

81. From approximately 1992 through 1996, defendants, their agents, servants and employees knew or should have known that defendant, JOHN PADDACK, was sexually abusing plaintiff, FRANKLIN PENA, while plaintiff was still an infant.

82. From approximately 1992 through 1996, defendants, their agents, servants and employees knew or should have known that defendant, JOHN PADDACK, was sexually abusing plaintiff, FRANKLIN PENA, while plaintiff was still an infant, at Cardinal Hayes High School located at 650 Grand Concourse, Bronx, New York 10451, and other locations.

83. Upon information and belief, defendants, their agents, servants and employees knew or should have known that the sexual abuse by defendant, JOHN PADDACK, of plaintiff, FRANKLIN PENA, while plaintiff was still an infant, was ongoing.

84. Defendants, THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK, JOHN GRAHAM, and CARDINAL HAYES HIGH SCHOOL trained and instructed defendant JOHN PADDACK for his employment at Cardinal Hayes High School.

85. Upon information and belief, that at all times herein mentioned, defendant JOHN PADDACK was under the direct supervision and control of defendants THE ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK, CARDINAL HAYES HIGH SCHOOL, and JOHN GRAHAM, when he performed the wrongful acts described herein.

86. That the aforesaid occurrences were caused or contributed to by the negligence, carelessness and recklessness and the willful, wanton, and grossly negligent conduct of the defendants, their agents, servants and/or employees, in: selecting, hiring, contracting and retaining defendant, JOHN PADDACK, to work with the plaintiff while plaintiff was still an infant and other children when it was known or should have been known to the defendants herein that defendant, JOHN PADDACK, had a history of complaints made against him and a propensity to sexually abuse children and in fact had sexually abused children; selecting, hiring, contracting and retaining defendant, JOHN PADDACK, when it was known or should have been known to the defendants herein that he did not possess the requisite skills or qualifications to work with children; failing to properly and adequately supervise the conduct of defendant, JOHN PADDACK, as it related to the plaintiff while plaintiff was still an infant and other children when it was known or should have been known to the defendants herein that defendant, JOHN PADDACK, had a history of complaints made against him and a propensity to sexually abuse

children and in fact had sexually abused children; failing to warn or advise the plaintiff, who was still an infant, his parents and others of defendant, JOHN PADDACK's, propensity to sexually abuse children and of the fact that he had sexually abused children whom he came in contact with by and through his roles at Cardinal Hayes High School; causing, permitting and allowing the sexual abuse to continue; failing to take any measures to stop the sexual abuse when it was known or should have been known to the defendants herein that the sexual abuse was continuing and ongoing; failing to establish adequate and effective professional training and educational programs and procedures for their employees calculated to prevent the sexual abuse of children; failing to implement any measures or take any steps to prevent defendant, JOHN PADDACK, from sexually abusing the plaintiff while the plaintiff was still an infant when it was known or should have been known to the defendants herein that defendant, JOHN PADDACK, had a history of complaints of sexual abuse made against him and a propensity to sexually abuse children and in fact had sexually abused children; failing to make any inquiry into the background of defendant, JOHN PADDACK, before selecting, hiring, contracting and retaining him; failing to make any inquiry into the background of defendant, JOHN PADDACK, before selecting, hiring, contracting and retaining him when it was known or should have been known before he was hired that defendant, JOHN PADDACK, had a propensity to sexually abuse children and had a history of complaints made against him; failing to use reasonable care to correct and remove defendant, JOHN PADDACK, and continuing to retain him when it was known or should have been known to the defendants herein that defendant, JOHN PADDACK, had a history of complaints made against him and a propensity to sexually abuse children and in fact had sexually abused children and was sexually abusing children and that continuing to retain

him would be likely to result in injury to others, including the plaintiff while plaintiff was still an infant; causing, permitting and allowing the plaintiff to be sexually abused while plaintiff was still an infant; and in otherwise being careless, negligent and reckless.

87. By reason of the forgoing, plaintiff, FRANKLIN PENA, sustained physical and psychological injuries, including but not limited to, severe emotional distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil, and loss of faith, a severe shock to his nervous system, certain internal injuries and has been caused to suffer physical pain and mental anguish, emotional and psychological damage as a result thereof, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature; and plaintiff, FRANKLIN PENA, has been forced to abstain from the duties of his vocation, and has and/or will become obligated to expend sums of money for medical expenses.

88. That by reason of the foregoing, defendants are liable to plaintiff for punitive and exemplary damages.

89. That the amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

90. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(5), 1602(7) and 1602(11).

WHEREFORE, the plaintiff demands judgment against the defendants, together with compensatory and punitive damages, together with the interest, cost, and disbursements

pursuant to the causes of action herein.

Dated: New York, New York
October 11, 2019

Yours etc.,
GAIR, GAIR, CONASON, RUBINOWITZ, BLOOM,
HERSHENHORN, STEIGMAN & MACKAUF
Attorneys for Plaintiff


PETER J. SAGHIR
80 Pine Street, 34th Floor
New York, New York 10005
(212) 943-1090

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

PETER J. SAGHIR, an attorney at law licensed to practice in the courts of the State of New York, states that affirmant is a partner with the firm of Gair, Gair, Conason, Rubinowitz, Hershenhorn, Bloom, Steigman & Mackauf, attorneys for the plaintiff in the within action; that affirmant has read the foregoing

VERIFIED COMPLAINT

and knows the contents thereof; and that the same is true to affirmant's own knowledge except as to those matters therein stated to be alleged on information and belief and that as to those matters, affirmant believes them to be true.

Affirmant further states that the reason this verification is made by affirmant and not by the plaintiff is that the plaintiff is not within the County wherein affirmant maintains his office.

The grounds of affirmant's belief are investigation and data in affirmant's possession and consultations had with the plaintiff.

The undersigned affirms that the foregoing statements are true under penalty of perjury.

Dated: New York, New York
October 11, 2019



PETER J. SAGHIR